



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2014-0883; FRL-9928-15-Region 3]

**Approval and Promulgation of Air Quality Implementation Plans;
Maryland; Determination of Attainment of the 1997 8-Hour Ozone National Ambient Air
Quality Standard for the Baltimore, Maryland Serious Nonattainment Area**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) has determined that the Baltimore, Maryland Serious Nonattainment Area (Baltimore Area) has attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). This determination is based upon complete, quality-assured, and certified ambient air monitoring data that shows the Baltimore Area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2012-2014 monitoring period. EPA is finding the Baltimore Area to be in attainment in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2014-0883. All documents in the docket are listed in the www.regulations.gov website. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and

will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Irene Shandruk, (215) 814-2166, or by e-mail at shandruk.irene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 18, 1997, EPA revised the health-based NAAQS for ozone based on 8-hour average concentrations. 62 FR 38856. The 8-hour averaging period replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. *Id.* On April 30, 2004 (69 FR 23858), EPA finalized its attainment/nonattainment designations for areas across the country for the 1997 8-hour ozone NAAQS. These actions became effective on June 15, 2004. Among those nonattainment areas was the Baltimore Area (specifically, Anne Arundel County, Baltimore City, Baltimore County, Carroll County, Harford County, and Howard County), which was designated as a moderate ozone nonattainment area. *Id.* Later, the Baltimore Area was reclassified as a serious nonattainment area for the 1997 ozone NAAQS. 77 FR 4901 (February 1, 2012). *See* 40 CFR 81.321. Air quality monitoring data from the 2012-2014 monitoring period indicate that the Baltimore Area is now attaining the 1997 8-hour ozone NAAQS. On March 25, 2015 (80 FR 15711), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. In the NPR, EPA proposed to determine that the Baltimore Area has attained the 1997 8-hour ozone NAAQS.

Under the provisions of EPA's ozone implementation rule (40 CFR section 51.918), if EPA issues a determination that an area is attaining the relevant standard (through a rulemaking that includes public notice and comment), it will suspend the area's obligations to submit an attainment demonstration, reasonably available control measures (RACM), reasonable further progress (RFP) plan, contingency measures and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for as long as the area continues to attain the standard. This suspension remains in effect until such time, if ever, that EPA (i) redesignates the area to attainment at which time those requirements no longer apply, or (ii) subsequently determines that the area has violated the 1997 8-hour ozone NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. The determination of attainment is not equivalent to a redesignation under section 107(d)(3) of the CAA. The designation status of the Baltimore Area will remain nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the Baltimore Area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan. Additionally, the determination of attainment is separate from, and does not influence or otherwise affect, any future designation determination or requirements for the Baltimore Area based on any new or revised ozone NAAQS, and it remains in effect regardless of whether EPA designates the Baltimore Area as a nonattainment area for purposes of any new or revised ozone NAAQS.

II. EPA's Evaluation

EPA has reviewed the complete, quality-assured and certified ozone ambient air monitoring data for the monitoring period for 2012-2014 for the Baltimore Area. The design values for each monitor for the years 2012-2014 are less than or equal to 0.084 ppm, and all monitors meet the data completeness requirements (*see* Table 1). Based on this 2012-2014 data from the Air Quality System (AQS) database and consistent with the requirements contained in 40 CFR part 50, EPA has concluded that the Baltimore Area attained the 1997 8-hour ozone NAAQS. Other specific requirements and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

Table 1: 2012-2014 Baltimore Area 1997 8-Hour Ozone Design Values

Monitor ID	Average percent (%) data completeness	2012-2014 Design value (ppm)
24-003-0014	97	0.074
24-005-1007	95	0.072
24-005-3001	99	0.072
24-013-0001	99	0.069
24-025-1001	98	0.075
24-025-9001	96	0.073
24-510-0054	90	0.064

The data in Table 1 are available in EPA's AQS database. The AQS report with this data is available in the docket for this rulemaking under docket number EPA-R03-OAR-2014-0883 and available online at www.regulations.gov, docket number EPA-R03-OAR-2014-0883.

III. Final Action

EPA has determined that the Baltimore Area has attained the 1997 8-hour ozone NAAQS. This determination is based upon complete, quality-assured, and certified ambient air monitoring data that show the Baltimore Area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2012-2014 monitoring period. This determination suspends the requirement for the Baltimore Area to submit an attainment demonstration, RACM, a RFP plan, contingency

measures, and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for so long as the Baltimore Area continues to attain the 1997 8-hour ozone NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. Finalizing this determination does not constitute a redesignation of the Baltimore Area to attainment for the 1997 8-hour ozone NAAQS under CAA section 107(d)(3). This determination of attainment also does not involve approving any maintenance plan for the Baltimore Area and does not determine that the Baltimore Area has met all the requirements for redesignation under the CAA, including that the attainment be due to permanent and enforceable measures. Therefore, the designation status of the Baltimore Area will remain nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA takes final rulemaking action to determine that the Baltimore Area meets the CAA requirements for redesignation to attainment.

IV. Statutory and Executive Order Reviews

A. General Requirements

This action makes a determination of attainment based on air quality, and will result in the suspension of certain Federal requirements, and will not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to

each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[Insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action determining that the Baltimore Area has attained the 1997 8-hour ozone NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 13, 2015

William C. Early,
Acting Regional Administrator,
Region III.

40 CFR Part 52 is amended as follows:

PART 52 – APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart V - Maryland

2. In §52.1082, paragraph (h) is added to read as follows:

§52.1082 Determinations of attainment.

* * * * *

(h) EPA has determined, as of [insert date of publication in the Federal Register], that based on 2012 to 2014 ambient air quality data, the Baltimore nonattainment area has attained the 1997 8-hour ozone NAAQS. This determination, in accordance with 40 CFR 51.1118, suspends the requirement for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 8-hour ozone NAAQS.

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